REMARKS

Claims 1-17 and 25-29 are pending in the application. Claims 1-6, 9-11, 13-17 and 25-29 are rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Morman (U.S. Patent No. 5,336,545). Claims 7, 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morman in view of Hafner et al. (U.S. Patent No. 5,789,065). Favorable reconsideration of this application in light of the remarks herein is respectfully requested.

Claim Rejections - 35 U.S.C. § 102/103

Claims 1-6, 9-11, 13-17 and 25-29 are rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Morman.

Independent claim 1 is drawn to a tear resistant laminate comprising an elastic polymeric film, a first nonwoven web bonded to the top surface of the elastic film, and a second nonwoven web bonded to the bottom surface of the elastic film. Claim 1 further requires that the laminate have an ultimate force to break of at least 3,000 g/in in the transverse direction.

Morman does not explicitly disclose a laminate having an ultimate force to break of at least 3,000 g/in as required by claim 1. However, claim 1 is rejected based on an assumption that the ultimate force to break limitation would be inherent to the Morman laminate, since the chemical make-up and laminate layers are the same as described in the present application. This conclusion, however, fails to take into account how the processing described in Morman affects the strength of the laminate.

Morman teaches necking the nonwoven layers at ambient temperature. There is no teaching or suggestion that the nonwoven materials be necked at an elevated temperature, much less that the nonwoven materials be necked at a temperature between the softening temperature and the melting temperature of at least 10% of the fibers as taught in the present application. Necking the nonwoven webs at ambient temperature tends to ***tear and weaken*** both the fibers and the internal bonding between the fibers of the nonwoven webs. Necking the nonwoven webs at a temperature between the softening temperature and the melting temperature of at least 10% of the fibers allows the softened fibers to resist tearing. Therefore, because the nonwoven webs of Morman are necked at ambient temperature, such nonwoven webs are weaker than the nonwoven webs of the present invention. It follows that, because Morman incorporates nonwoven webs that are weaker than the nonwoven webs of invention, it would not be inherent that the laminate of Morman could achieve the same ultimate strength as the laminate of the invention.

Claim 1 requires a laminate having an ultimate force to break of at least 3,000 g/in in the transverse direction. Because the laminate of Morman incorporates a weakened, necked nonwoven, it is not inherent that the Morman laminate would meet the same ultimate force to break limitation in the transverse direction as the laminate of the present invention. Thus, the Examiner has not shown that the Morman laminate has an ultimate force to break of at least 3,000 g/in as required by claim 1. Accordingly, as Morman does not teach or suggest each and every limitation of claim 1, claim 1 is respectfully submitted as not anticipated.

It would not be obvious from the teachings of Morman to provide a laminate with an ultimate force to break of at least 3,000 g/in, because there is no teaching or suggestion of how to modify the

laminate of Morman to reach such an ultimate force to break. Accordingly, claim 1 would not be obvious in view of Morman.

Therefore, as claim 1 is neither anticipated nor obvious in view of Morman, Applicants respectfully submit that claim 1 is allowable. Claims 2-6, 9-11 and 13-17 depend directly or indirectly from independent claim 1, adding further limitations thereto, and are respectfully submitted as allowable for at least the same reasons as claim 1.

Amended claim 25 requires a laminate having a first nonwoven web that "has been set in a transversely consolidated state before being bonded to the elastic polymeric film." In the exemplary embodiment described on pages 14 and 15 of the present application, the nonwoven web is set in a transversely consolidated state by heating the precursor web to a temperature between the softening temperature and the melting temperature of at least 10% of the thermoplastic fibers, drawing the nonwoven web in the machine direction under tension to consolidate the web laterally in the transverse direction, and then cooling the web before final assembly with the laminate. The nonwoven web of Morman, however, is not set in a transversely consolidated state before being bonded to the elastic polymeric film. Morman teaches maintaining the nonwoven (neckable material 12) in a "tension necked condition while the elastic sheet 32 is joined to the necked material 12 during their passage through the bonded roller arrangement 26 to form a composite elastic necked bonded laminate 40" (col. 5, lines 40-47). Accordingly, Morman does not disclose each and every limitation of claim 25, because it fails to disclose a nonwoven web that has been "set in a transversely consolidated state before being bonded to the elastic polymeric film." Therefore, claim 25 is not anticipated.

In teaching that the nonwoven web is tensioned when joined to the elastic layer, Morman teaches away from providing a web that "has been set in a transversely consolidated state before being bonded to the elastic polymeric film," because it would be unnecessary to tension a web that is already set in the consolidated state. Therefore, it would not be obvious to modify Morman to meet the limitations of claim 25.

As claim 25 is neither anticipated nor obvious in view of Morman, Applicants respectfully submit that claim 25 is allowable. Claims 26-29 depend from independent claim 25 adding further limitations thereto, and are respectfully submitted as allowable for at least the same reasons as claim 25.

***Claim Rejections* - 35 U.S.C. § 103**

Claims 7, 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morman in view of Hafner et al. Claims 7, 8 and 12 depend from independent claim 1 adding further limitations thereto. As discussed above with respect to independent claim 1, it has not been shown that the laminate of Morman inherently has an ultimate force to break of at least 3,000 g/in as required by claim 1. Furthermore, it has not been shown that Hafner discloses a laminate inherently having an ultimate force to break of at least 3,000 g/in as required by claim 1. Accordingly, neither Hafner nor Morman teach or suggest each and every limitation of claim 1 or claims 7, 8 and 12 depending from claim 1. Therefore, claims 7, 8 and 12 are neither anticipated nor obvious over Morman in view of Hafner, and Applicants respectfully submit claims 7, 8 and 12 as allowable.

CONCLUSION

In view of the above, Applicants respectfully submit that the Application is in condition for allowance. If there are any outstanding issues, Applicants request the Examiner telephone the Applicants' attorney to resolve such issues.

Respectfully submitted,
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EXHIBIT A
AMENDED CLAIMS MARKED UP TO SHOW CHANGES

25. (Amended) A product incorporating a tear-resistant laminate, the tear-resistant laminate comprising:

an elastic polymeric film;

a first nonwoven web bonded to a first surface of the elastic polymeric film, the first nonwoven web formed of nonelastic thermoplastic fibers and having a machine direction and a transverse direction, wherein the first nonwoven web has been set in a transversely consolidated [in the transverse direction] state before being bonded to the elastic polymeric film;

a second nonwoven web bonded to a second surface of the elastic polymeric film opposite the first surface, the second nonwoven web formed of nonelastic thermoplastic fibers and having a machine direction and a transverse direction, wherein the second nonwoven web has been set in a transversely consolidated [in the transverse direction] state before being bonded to the elastic polymeric film; and

wherein the tear-resistant laminate has not been further substantially consolidated after assembly.

EXHIBIT B
CLEAN SET OF PENDING CLAIMS

All of the pending claims are reproduced below for the convenience of the Examiner, whether or not an amendment has been made. Any differences between the claims as presented here and the claims pending in the Application are unintentional. No amendments are intended to be made by this Exhibit.

1. The tear-resistant laminate, comprising:

an elastic polymeric film having a top surface and a bottom surface;

a first nonwoven web formed of nonelastic thermoplastic fibers and having a predefined machine direction and a predefined transverse direction, said web having an extensible elongation value in a range of from about 20% to about 200% and an ultimate force to break of greater than 1500 g/in. in said transverse direction, a top surface and a bottom surface, said bottom surface of the first nonwoven web being bonded to the top surface of said elastomeric film;

a second nonwoven web formed of nonelastomeric thermoplastic fibers and having predefined machine and transverse directions, a predefined extensible elongation value and an ultimate force to break value in said transverse direction that is substantially equal to said extensible elongation values and said force to break value of the first nonwoven web, a top surface and a bottom surface, said top surface of the second nonwoven web being bonded to the bottom surface of the elastomeric film;

said tear resistant laminate having, in a direction aligned with the transverse direction

of the first and second nonwoven webs, an elongation value greater than said extensible elongation values of the first and second webs and an ultimate force to break of at least 3000 g/in.

2. The tear resistant laminate, as set forth in Claim 1, wherein said first and said second nonwoven webs are formed of randomly deposited nonelastomeric thermoplastic fibers, at least about 10% of said fibers having approximately equal softening temperatures.

3. The tear resistant laminate, as set forth in Claim 2, wherein from about 2% to about 50% of said thermoplastic fibers comprising each of the first and second nonwoven webs are skewed in a direction greater than about 10° from the machine direction of the respective nonwoven web.

4. The tear resistant laminate, as set forth in Claim 2, wherein said thermoplastic fibers comprising the first and second nonwoven webs have a mass divided by length value of at least about 1.5 denier.

5. The tear resistant laminate, as set forth in Claim 1, wherein said first and second nonwoven webs are formed of randomly deposited polyolefin fibers.

6. The tear resistant laminate, as set forth in Claim 5, wherein said polyolefin fibers are spun bond polypropylene fibers and said first and second webs have a basis weight of from

about 14 to about 60 g/m^2.

7. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film is a metallocene-based low density polyethylene film.

8. The tear resistant laminate, as set forth in Claim 7, wherein said metallocene-based low density polyethylene film has a basis weight of from about 18 g/m^2 to about 100 g/m^2.

9. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film is a block copolymer blend.

10. The tear resistant laminate, as set forth in Claim 9, wherein said elastic polymeric film has a basis weight of from about 30 g/m^2 to about 100 g/m^2.

11. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film has elastic elongation properties greater than the extensible elongation values of the first and second nonwoven webs and a set of less than 25% when stretched 50%.

12. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film is perforated.

13. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film has a Dart Impact value of at least 400 g.

14. The tear resistant laminate, as set forth in Claim 1, wherein the bond between the bottom surface of the first nonwoven web and the top surface of the elastic polymeric film, and the bond between the top surface of the second nonwoven web and the bottom surface of the elastic polymeric film each comprise a mutually bonded surface area between respective contiguous web and film surfaces of at least 3.0% of the total contiguous surface area.

15. The tear resistant laminate, as set forth in Claim 1, wherein said first nonwoven web comprises a composite structure formed of two or more layers of a nonwoven fabric bonded together.

16. The tear resistant laminate, as set forth in Claim 1, wherein said second nonwoven web comprises a composite structure formed of two or more layers of a nonwoven fabric bonded together.

17. The tear resistant laminate, as set forth in Claim 1, wherein said elastic polymeric film comprises a plurality of layers of elastic polymeric film, said top surface of the elastic polymeric film being the top surface of the uppermost layer of the plurality of layers, and said bottom surface of the elastic polymeric film being the bottom surface of the lowermost layer of the plurality

of layers.

25. (Amended) A product incorporating a tear-resistant laminate, the tear-resistant laminate comprising:

an elastic polymeric film;

a first nonwoven web bonded to a first surface of the elastic polymeric film, the first nonwoven web formed of nonelastic thermoplastic fibers and having a machine direction and a transverse direction, wherein the first nonwoven web has been set in a transversely consolidated state before being bonded to the elastic polymeric film;

a second nonwoven web bonded to a second surface of the elastic polymeric film opposite the first surface, the second nonwoven web formed of nonelastic thermoplastic fibers and having a machine direction and a transverse direction, wherein the second nonwoven web has been set in a transversely consolidated state before being bonded to the elastic polymeric film; and

wherein the tear-resistant laminate has not been further substantially consolidated after assembly.

26. The product of claim 25 wherein the first nonwoven web has an ultimate force to break of greater than 1500 g/in in said transverse direction.

27. The product of claim 25 wherein the tear-resistant laminate has an ultimate force to break of greater than 3000 g/in in said transverse direction.

28. The product of claim 25 wherein the tear-resistant laminate has an ultimate force to break of greater than 4000 g/in in said transverse direction.

29. The product of claim 25 wherein the elastic polymeric film has a dart impact value of at least 400 g.